

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.2684 OF 2000

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DATED: 27-04-2007

Between:

K. Raju

.. Petitioner

and

The A.P.S.R.T.C. represented by its
Chairman and Managing Director,
Musheerabad, Hyderabad and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.2684 OF 2000

ORDER:

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____ This writ petition is filed seeking a mandamus declaring the action of the 2nd respondent in appointing the petitioner as Fresh Conductor and asking him to pay security deposit of Rs.1,000/- by the impugned proceedings No.PA/19(78)/98-RM-KNL, dated 24.06.1998, as illegal, arbitrary and violative of Articles 14,16 and 21 of the Constitution of India; and consequently to direct the respondents to reinstate the petitioner with continuity of service and backwages.

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____ It appears, the petitioner had joined the service of the A.P. State Road Transport Corporation (for short 'A.P.S.R.T.C.') as Conductor at Atmakur Depot with effect from 31.01.1991. While so, on account of the unauthorized absence from duties from 07.06.1997 to September 1997, a departmental enquiry was conducted, in which charges were proved, and the disciplinary authority- Depot Manager, Atmakur, concurring with the findings of the Enquiry Officer, imposed punishment of removal from service with effect from 22.11.1997. Aggrieved by the same, the petitioner carried the matter in appeal, but the appellate authority rejected the same confirming the order passed by the disciplinary authority. Aggrieved thereby, the petitioner further carried the matter in review before the Regional Manager, Kurnool. The Regional Manager took a lenient view and directed reappointment of the petitioner as fresh Conductor Grade-II and further directed him to pay a security deposit of Rs.1,000/-. Aggrieved by the same, the

present writ petition is filed.

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The learned counsel for the petitioner strenuously contended that during the period of alleged unauthorized absence, the petitioner was suffering from Gastric Ulcer and hence applied for sick leave up to 31.07.1997. When the petitioner approached the doctor at Atmakur Dispensary, he was referred to Nandyal Dispensary, where the doctor directed the doctor of Atmakur Dispensary to refer the petitioner to Tarnaka Hospital for Specialist's treatment. But, instead of referring the petitioner to Tarnaka hospital, the doctor at Atmakur Dispensary advised him to take treatment at Kurnool Dispensary. While taking a lenient view on the alleged misconduct of the petitioner, the denial of backwages and continuity of service by the review authority is arbitrary and illegal and it is not justified in directing the appointment of the petitioner as fresh Conductor.

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Whereas, the learned counsel for the respondents contended that though the petitioner absented for a period of about 120 days in a year without sufficient cause being shown, a lenient view has been taken by the review authority; otherwise, except the punishment of removal from service, no other punishment could have been imposed. The order passed by the review authority, appointing the petitioner as fresh Conductor, cannot be further interfered with and no further relief can be granted to the petitioner.

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I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned orders and other material available on record.

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Absolutely, there is no evidence to show that the petitioner suffered from Gastric Ulcer and the doctor at Nandyal Dispensary directed the doctor at Atmakur Dispensary to refer the petitioner to

Tarnaka Hospital, except some out patient chits, which cannot be accepted in any domestic enquiry. However, taking into consideration the clean record of the petitioner and since he had no past misconduct of this nature, though the charges were proved, the review authority had taken a lenient view and granted the relief of fresh appointment. I find no illegality in the order of the review authority. However, denying the past service rendered by the petitioner for all purposes cannot be said to be justified. Therefore, I am of the opinion that though the petitioner was re-appointed as fresh Conductor, his past service shall be taken into consideration for the purpose of retirement benefits. However, it is made clear that the said past service of the petitioner is not to be taken into account for the purpose of seniority or other benefits.

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Accordingly, the writ petition is disposed of. There shall be no order as to costs.

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C.V. RAMULU, J

27th April, 2007.

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